

Server. A computer that controls one or more applications or environments within a Class II gaming system.

Test/diagnostics mode. A mode on a component that allows various tests to be performed on the Class II gaming system hardware and software.

Testing laboratory. An organization recognized by a tribal gaming regulatory authority pursuant to § 547.4(f).

Tribal gaming regulatory authority. The entity authorized by tribal law to regulate gaming conducted pursuant to the Indian Gaming Regulatory Act.

Voucher. A financial instrument of fixed wagering value, usually paper, that can only be used to acquire an equivalent value of cashable credits or cash through interaction with a voucher system.

Voucher system. A component of the Class II gaming system or an external system that securely maintains records of vouchers and coupons; validates payment of vouchers; records successful or failed payments of vouchers and coupons; and controls the purging of expired vouchers and coupons.

§ 547.4 How does a tribal government, tribal gaming regulatory authority, or tribal gaming operation comply with this part?

(a) *Limited immediate compliance.* A tribal gaming regulatory authority shall:

(1) Require that all Class II gaming system software that affects the play of the Class II game be submitted, together with the signature verification required by § 547.8(f), to a testing laboratory recognized pursuant to paragraph (f) of this section within 120 days after November 10, 2008;

(2) Require that the testing laboratory test the submission to the standards established by § 547.8(b), § 547.8(f), § 547.14, the minimum probability standards of § 547.5(c), and to any additional technical standards adopted by the tribal gaming regulatory authority;

(3) Require that the testing laboratory provide the tribal gaming regulatory authority with a formal written report setting forth and certifying to the findings and conclusions of the test;

(4) Make a finding, in the form of a certificate provided to the supplier or manufacturer of the Class II gaming system, that the Class II gaming system qualifies for grandfather status under the provisions of this section, but only upon receipt of a testing laboratory's report that the Class II gaming system is compliant with § 547.8(b), § 547.8(f), the minimum probability standards of § 547.5(c), § 547.14, and any other technical standards adopted by the tribal gaming regulatory authority. If the tribal gaming regulatory authority does not issue the certificate, or if the testing laboratory finds that the Class II gaming system is not compliant with § 547.8(b), § 547.8(f), the minimum probability standards of § 547.5(c), § 547.14, or any other technical standards adopted by the tribal gaming regulatory authority, then the gaming system shall immediately be removed from play and not be utilized.

(5) Retain a copy of any testing laboratory's report so long as the Class II gaming system that is the subject of the report remains available to the public for play;

(6) Retain a copy of any certificate of grandfather status so long as the Class II gaming system that is the subject of the certificate remains available to the public for play; and

(7) Require the supplier of any player interface to designate with a permanently affixed label each player interface with an identifying number and the date of manufacture or a statement that the date of manufacture was on or before the effective date of this part. The tribal gaming regulatory authority shall also require the supplier to provide a written declaration or affidavit affirming that the date of manufacture was on or before November 10, 2008.

(b) *Grandfather provisions.* All Class II gaming systems manufactured or placed in a tribal facility on or before the effective date of this part and certified pursuant to paragraph (a) of this section are grandfathered Class II gaming systems for which the following provisions apply:

(1) Grandfathered Class II gaming systems may continue in operation for a period of five years from November 10, 2008.

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(2) Grandfathered Class II gaming system shall be available for use at any tribal gaming facility subject to approval by the tribal gaming regulatory authority, which shall transmit its notice of that approval, identifying the grandfathered Class II gaming system and its components, to the Commission.

(3) As permitted by the tribal gaming regulatory authority, individual hardware or software components of a grandfathered Class II gaming system may be repaired or replaced to ensure proper functioning, security, or integrity of the grandfathered Class II gaming system.

(4) All modifications that affect the play of a grandfathered Class II gaming system must be approved pursuant to paragraph (c) of this section, except for the following:

(i) Any software modifications that the tribal gaming regulatory authority finds will maintain or advance the system's overall compliance with this part or any applicable provisions of parts 542 and 543 of this chapter, after receiving a new testing laboratory report that the modifications are compliant with the standards established by § 547.8(b), the minimum probability requirements of § 547.5(c), § 547.14, and any other standards adopted by the tribal gaming regulatory authority;

(ii) Any hardware modifications that the tribal gaming regulatory authority finds will maintain or advance the system's overall compliance with this part or any applicable provisions of parts 542 and 543 of this chapter; and

(iii) Any other modification to the software of a grandfathered Class II gaming system that the tribal gaming regulatory authority finds will not detract from, compromise or prejudice:

(A) The proper functioning, security, or integrity of the Class II gaming system, and

(B) The gaming system's overall compliance with the requirements of this part or any applicable provisions of parts 542 and 543 of this chapter.

(iv) No such modification may be implemented without the approval of the tribal gaming regulatory authority. The tribal gaming regulatory authority shall maintain a record of the modification so long as the Class II

gaming system that is the subject of the modification remains available to the public for play and shall make the record available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).

(c) *Submission, testing, and approval—generally.* Except as provided in paragraphs (b) and (d) of this section, no tribal gaming regulatory authority shall permit in a tribal gaming operation the use of any Class II gaming system, or any associated cashless system or voucher system or any modification thereto, unless:

(1) The Class II gaming system, cashless system, voucher payment system, or modification has been submitted to a testing laboratory;

(2) The testing laboratory tests the submission to the standards established by:

(i) This part;

(ii) Any applicable provisions of parts 542 and 543 of this chapter that are testable by the testing laboratory; and

(iii) The tribal gaming regulatory authority;

(3) The testing laboratory provides a formal written report to the party making the submission, setting forth and certifying to its findings and conclusions; and

(4)(i) Following receipt of the testing laboratory's report, the tribal gaming regulatory authority makes a finding that the Class II gaming system, cashless system, or voucher system conforms to the standards established by:

(A) This part;

(B) Any applicable provisions of parts 542 and 543 of this chapter that are testable by the testing laboratory; and

(C) The tribal gaming regulatory authority.

(ii) The tribal gaming regulatory authority shall retain a copy of the testing laboratory's report so long as the Class II gaming system, cashless system, voucher system, or modification thereto that is the subject of the report

remains available to the public for play in its gaming operation.

(d) *Emergency hardware and software modifications.* (1) A tribal gaming regulatory authority, in its discretion, may permit modified hardware or software to be made available for play without prior laboratory testing or review if the modified hardware or software is:

(i) Necessary to correct a problem affecting the fairness, security, or integrity of a game or accounting system or any cashless system, or voucher system; or

(ii) Unrelated to game play, an accounting system, a cashless system, or a voucher system.

(2) If a tribal gaming regulatory authority authorizes new or modified software or hardware to be made available for play or use without prior testing laboratory review, the tribal gaming regulatory authority shall thereafter require the hardware or software manufacturer to:

(i) Immediately advise other users of the same hardware or software of the importance and availability of the update;

(ii) Immediately submit the new or modified hardware or software to a testing laboratory for testing and verification of compliance with this part and any applicable provisions of parts 542 and 543 of this chapter that are testable by the testing laboratory; and

(iii) Immediately provide the tribal gaming regulatory authority with a software signature verification tool meeting the requirements of § 547.8(f) for any new or modified software.

(3) If a tribal gaming regulatory authority authorizes a software or hardware modification under this paragraph, it shall maintain a record of the modification and a copy of the testing laboratory report so long as the Class II gaming system that is the subject of the modification remains available to the public for play and shall make the record available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian

Gaming Regulatory Act, 25 U.S.C. 2716(a).

(e) *Compliance by charitable gaming operations.* This part shall not apply to charitable gaming operations, provided that:

(1) The tribal government determines that the organization sponsoring the gaming operation is a charitable organization;

(2) All proceeds of the charitable gaming operation are for the benefit of the charitable organization;

(3) The tribal gaming regulatory authority permits the charitable organization to be exempt from this part;

(4) The charitable gaming operation is operated wholly by the charitable organization's employees or volunteers; and

(5) The annual gross gaming revenue of the charitable gaming operation does not exceed \$1,000,000.

(f) *Testing laboratories.* (1) A testing laboratory may provide the examination, testing, evaluating and reporting functions required by this section provided that:

(i) It demonstrates its integrity, independence and financial stability to the tribal gaming regulatory authority.

(ii) It demonstrates its technical skill and capability to the tribal gaming regulatory authority.

(iii) It is not owned or operated by the same tribe or tribal gaming regulatory authority for whom it is providing the testing, evaluating, and reporting functions required by this section.

(iv) The tribal gaming regulatory authority:

(A) Makes a suitability determination of the testing laboratory based upon standards no less stringent than those set out in §§ 533.6(b)(1)(ii) through (v) of this chapter and based upon no less information than that required by § 537.1 of this chapter, or

(B) Accepts, in its discretion, a determination of suitability for the testing laboratory made by any other gaming regulatory authority in the United States.

(v) After reviewing the suitability determination and the information provided by the testing laboratory, the

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tribal gaming regulatory authority determines that the testing laboratory is qualified to test and evaluate Class II gaming systems.

(2) The tribal gaming regulatory authority shall:

(i) Maintain a record of all determinations made pursuant to paragraphs (f)(1)(iv) and (f)(1)(v) of this section for a minimum of three years and shall make the records available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).

(ii) Place the testing laboratory under a continuing obligation to notify it of any adverse regulatory action in any jurisdiction where the testing laboratory conducts business.

(iii) Require the testing laboratory to provide notice of any material changes to the information provided to the tribal gaming regulatory authority.

§ 547.5 What are the rules of interpretation and of general application for this part?

(a) *Minimum standards.* A tribal gaming regulatory authority may establish and implement additional technical standards that are as stringent as, or more stringent than, those set out in this part.

(b) *Only applicable standards apply.* Gaming equipment and software used with Class II gaming systems shall meet all applicable requirements of this part. For example, if a Class II gaming system lacks the ability to print or accept vouchers, then any standards that govern vouchers do not apply.

(c) *Fairness.* No Class II gaming system shall cheat or mislead users. All prizes advertised shall be available to win. No progressive prize shall have a probability of winning less than 1 in 100,000,000. No other prize shall have a probability of winning less than 1 in 50,000,000.

(d) *Approved equipment and software only.* All gaming equipment and software used with Class II gaming systems shall be identical in all respects

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to a prototype reviewed and tested by a testing laboratory and approved for use by the tribal gaming regulatory authority pursuant to § 547.4(a) through (c). Unapproved software shall not be loaded onto or stored on any program storage medium used in a Class II gaming system, except as provided in § 547.4(d).

(e) *Proper functioning.* All gaming equipment and software used with Class II gaming systems shall perform according to the manufacturer's design and operating specifications.

(f) *No Limitation of Technology.* This part should not be interpreted to limit the use of technology or to preclude the use of technology not specifically referenced.

(g) *Severability.* If any provision of this part is declared invalid by a court of competent jurisdiction, such decision shall not affect the remainder of this part.

§ 547.6 What are the minimum technical standards for enrolling and enabling Class II gaming system components?

(a) *General requirements.* Class II gaming systems shall provide a method to:

(1) Enroll and unenroll system components;

(2) Enable and disable specific system components.

(b) *Specific requirements.* Class II gaming systems shall:

(1) Ensure that only enrolled and enabled system components participate in gaming; and

(2) Ensure that the default condition for components shall be unenrolled and disabled.

§ 547.7 What are the minimum technical hardware standards applicable to Class II gaming systems?

(a) *General requirements.* (1) The Class II gaming system shall operate in compliance with applicable regulations of the Federal Communications Commission.

(2) Prior to approval by the tribal gaming regulatory authority pursuant to § 547.4(c), the Class II gaming system shall have obtained from Underwriters' Laboratories, or its equivalent, relevant certification(s) required for equipment of its type, including but not limited to certifications for liquid